

NEW HAMPSHIRE STATE LIQUOR COMMISSION

MINUTES OF MEETING – DECEMBER 3, 2003

PRESENT: Chairman Anthony Maiola and Commissioners John Byrne and Patricia Russell; John Bunnell, Administrator of Marketing & Sales; Craig Bulkley, Bureau Chief of Administrative Services; Aidan Moore, Chief of Enforcement; Peter Engel, Director of Store Operations; Howard Roundy, Director of Information Technology; Richard Gerrish, Spirits Marketing Specialist; Nicole Horton, Wine Marketing Specialist; George Tsiopras, Chief Financial Officer. Guests: Al Picconi, United Beverages, Inc.

I. FINANCIAL & ADMINISTRATIVE REPORTS

1. Financial Reports

A. Weekly, Y-T-D Sales Reports:

The SA1000 report for the week ending November 30, 2003 shows retail sales were up almost 8.4%, on-premise sales were down -0.44%, off-premise sales were up around 3.7%, and total aggregate sales were up 6.9%. The traffic count increased by 2,562, as did the average sale ticket by \$7.25.

The W-1 Total Weekly Sales report for the same period confirms that total sales were up almost 6.9% or \$610,004 for the week, and were also up for the year by 8.3% or \$12,636,635. Wine sales increased for the week by a little over 8% or \$336,568, as they did by 8.8% or \$6,095,387 for the year. Sales of spirits on a weekly basis increased by 5.8% or \$273,436, as they did year-to-date by 7.8% or \$6,541,448.

A review of the current outstanding depletions and post-offs report shows only one broker, who has been out of town, with an outstanding balance. Craig expected a check may have been received yesterday, or will be today.

Gift card sales were very good the week prior to Thanksgiving, and Craig expects there will also be a big jump before the Christmas holiday.

The worker's compensation report shows numbers from October 2003, which are still averaging around 30 incidents per month. George commented that expenditures far exceeded what was budgeted, and will have to be taken into consideration when the new budget is developed. Out of about \$200,000 in this account, \$167,000 has been expended. Craig mentioned that almost ½ of these expenses continue to be due to back injuries, probably caused by material handling. Commissioner Russell inquired whether worker's compensation training could be added for store personnel, and if a constant check is kept on equipment, particularly in the warehouse. Craig replied that equipment is maintained on a regular basis, with John Bunnell confirming that this is done at least once a month.

Craig handed out a draft policy regarding records checks for full-time vacancies. He explained that part-time workers had been added, as had an Attachment C, Criminal Records Release Authorization Form. Chairman Maiola said this would be addressed at next week's meeting.

A compatible working draft regarding the Commission's use of metrics has been developed from input from the three Bureau Chiefs. Craig suggested that the Commissioners and Bureau Chief review this together; Chairman Maiola called a meeting for this Thursday at 9:00 a.m.

Craig will be attending the Governor and Council meeting this morning in support of the Enforcement's false I.D. program.

The latest W-6 Expense Budget Activity Variance report indicates the year to be at about 42.47% expended, with total agency expenditures at around 42%. George mentioned that the lapse is now being included. There are still the same recurring concerns. Class 50 monies are still up at the store level. Benefits monies are already falling short, and are being closely monitored.

There are several other matters taking place at this time. The advertising agency report is currently at the printers. In addition, financial management is working on several contracts.

George previously sent everyone an income statement with an added column showing the differences between last year and the year before. It also shows this year's purchases, which are up 15% over last year. Craig mentioned that whatever has not been spent out of equipment budgets will probably not be available and will be frozen. No vehicle purchases are being approved. The telezon equipment is in danger of not being approved, but an attempt to obtain this will be made anyway.

2. IT Report

ACR is working on the code for the promotional card concept, which is not working well.

Because of the holiday there were difficulties in getting the GO people to respond to difficulties at the new Brookline store. This is expected to be resolved this morning. In addition, on Monday Verizon resolved their problems with the communications system in this store.

Howard said the deal with Dell has now been forwarded to OIT and the Attorney General's Office for approval.

II. MARKETING & SALES REPORTS

1. Store Operations

Total store sales for the week ending 11/30/03 were up over the same week last year by 7.78% or \$573,266.38. It was significant to note the large increase in business on the day before Thanksgiving, with some stores up \$40,000 over last year. Peter specifically noted the increased sales at Store #48 Hinsdale and Store #50 Nashua, which he attributed to out-of-state traffic.

A. Additional Extended Hours of Operation:

It was moved by Commissioner Byrne, seconded by Commissioner Russell, that the Commission approve additional extended closing hours to 8:00 p.m. at Store #27 Nashua and Store #22 Brookline on Monday, December 22 and Tuesday, December 23, 2003, as recommended by Michael O'Connor, Store Supervisor/Manager and concurred by Peter Engel, Director of Store Operations and John Bunnell, Administrator of Marketing & Sales. The motion was unanimously adopted.

Peter proposed proceeding with negotiations for the new seasonal store location in Seabrook. He estimated work beginning on February 1, 2004, with an anticipated opening in April of that year. The soonest needed positions could be approved by Fiscal Committee would be in January, with a Governor and Council agenda date in January or February. Commissioner Byrne said the first step was to develop a budget for this store from the internal lapse. John Bunnell said Tom Smith planned to visit the site next week in order to determine some costs. Howard Roundy suggested that the new store be assigned the number 28.

Commissioner Russell asked if anyone had talked with people in Keene regarding that new site. John Bunnell said he had e-mailed the attorney and would try to reach Neil Birksen today. He also mentioned that some legal assistance may be required.

John Bunnell reported that the close-out stores are doing very well, with \$1,100.00 worth of product being sold last week.

2. Purchasing Report

Nicole Horton and John Bunnell met with the sales manager of Batavia Wines, which is owned by Canandaigua, and local representation from Horizon Beverage Company, regarding some products which are at the top of the out-of-stock list. Although these items have had a long history of problems, these are now being resolved. Within a couple of weeks one trailer load is expected to be delivered.

Regarding warehouse activities, John Bunnell reported that it became necessary to increase hours of operation there on three days by opening one hour and closing one hour earlier. Delivery to several stores was delayed by one day, but this did not effect operations within those stores.

3. Merchandising Report:

A. SPIRITS:

1) Test Market Products:

a. Test Market Request (Cruzan Estate Single Barrel Rum):

It was moved by Commissioner Byrne, seconded by Commissioner Russell, that the Commission approve a request from United Beverages, Inc./Todhunter Imports, Ltd., for a new test market listing for Cruzan Estate Single Barrel Rum, 750ML size (assigned Code #608), as recommended by Richard Gerrish, Spirits Marketing Specialist and concurred by John Bunnell, Administrator of Marketing & Sales. The motion was unanimously adopted.

b. Test Market Request (Saint-Vivant Armagnac):

It was moved by Commissioner Byrne, seconded by Commissioner Russell, that the Commission approve a request from Horizon Beverage Company/Sidney Frank Importing Co., for a new test market listing for Saint-Vivant Armagnac, 750ML size (assigned Code #4561), as recommended by Richard Gerrish, Spirits Marketing Specialist and concurred by John Bunnell, Administrator of Marketing & Sales. The motion was unanimously adopted.

c. Test Market Request (Brady's Imported Irish Cream):

It was moved by Commissioner Byrne, seconded by Commissioner Russell, that the Commission approve a request from United Beverages, Inc./MHW, Ltd., for a new test market listing for Brady's Imported Irish Cream, 750ML size (assigned Code #8528), as recommended by Richard Gerrish, Spirits Marketing Specialist and concurred by John Bunnell, Administrator of Marketing & Sales. The motion was unanimously adopted.

d. Test Market Results (Codes #4524, #4527, #8055 & #3203):

It was moved by Commissioner Byrne, seconded by Commissioner Russell, that the Commission delist Code #4524, Camus 4u Liqueur,

750ML size, which failed to attain both their gross profits required for full distribution and specialty listings at the conclusion of a six-month test market period, and grant specialty listings to the following three (3) 750ML size spirit items which exceeded the gross profit required for such listing at the conclusion of a six-month test market period, as recommended by Richard Gerrish, Spirits Marketing Specialist and concurred by John Bunnell, Administrator of Marketing & Sales: Code #4527, Camus Grand VSOP Cognac; Code #8055, Corazon de Agave Reposado Tequila; and Code #3203, Magellan Gin. The motion was unanimously adopted.

e. Test Market Results (Codes #3540, #3541, #954, #955 & #945):

It was moved by Commissioner Byrne, seconded by Commissioner Russell, that the Commission grant a specialty listing to Code #945, Van Gogh Pineapple Vodka, 750ML size, which exceeded the gross profit required for such listing at the conclusion of a six-month test market period, but delist the following four (4) 750ML size spirit items which failed to attain both their gross profit required for full distribution and specialty listings at the conclusion of a six-month test market period, as recommended by Richard Gerrish Spirits Marketing Specialist and concurred by John Bunnell, Administrator of Marketing & Sales: Code #3540, Players Extreme Mandtango Vodka; Code #3541, Players Extreme Green Apple Vodka; Code #954, Players Extreme Lemon Vodka; and Code #955, Players Extreme Cherry Vodka. The motion was unanimously adopted.

2) One Time Buy Request (Pallini Lemoncello, 50ML):

It was moved by Commissioner Byrne, seconded by Commissioner Russell, that the Commission deny a request from Horizon Beverage Company/Skyy Spirits for the Commission to make a special purchase of Pallini Lemoncello, 50ML size, as recommended by Richard Gerrish, Spirits Marketing Specialist and concurred by John Bunnell, Administrator of Marketing & Sales. The motion was unanimously adopted.

3) January/February Sweepstakes (Horizon Beverage/Sidney Frank):

It was moved by Commissioner Byrne, seconded by Commissioner Maiola, that the Commission approve a request from Horizon Beverage Company/Sidney Frank Importing Co. to conduct two sweepstakes programs in promotion of Jagermeister and Grey Goose Vodka and Grey Goose flavored vodkas during January and February 2004, as recommended by Richard Gerrish, Spirits Marketing Specialist and concurred by John Bunnell, Administrator of Marketing & Sales. The motion was unanimously adopted.

4) January Special Offers:

a. 2 items – Perfecta Wine Company:

It was moved by Commissioner Byrne, seconded by Commissioner Maiola, that the Commission approve special offers from Perfecta Wine Company, based upon depletions of two (2) spirit items, to be featured on sale during January 2004, as recommended by Richard Gerrish, Spirits Marketing Specialist and concurred by John Bunnell, Administrator of Marketing & Sales. The motion was unanimously adopted.

b. 1 item – Horizon Beverage Company:

It was moved by Commissioner Byrne, seconded by Commissioner Maiola, that the Commission approve a special offer from Horizon Beverage Company, based upon depletions of one (1) spirit item, to be featured on sale during January 2004, as recommended by Richard Gerrish, Spirits Marketing Specialist and concurred by John Bunnell, Administrator of Marketing & Sales. The motion was unanimously adopted.

c. 1 item – United Beverages, Inc.:

It was moved by Commissioner Byrne, seconded by Commissioner Maiola, that the Commission approve a special offer from United Beverages, Inc., based upon depletions of one (1) spirit item, to be featured on sale during January 2004, as recommended by Richard Gerrish, Spirits Marketing Specialist and concurred by John Bunnell, Administrator of Marketing & Sales. The motion was unanimously adopted.

d. 2 additional items – United Beverages, Inc.:

It was moved by Commissioner Byrne, seconded by Commissioner Maiola, that the Commission approve additional special offers from United Beverages, Inc., based upon depletions of two (2) spirit items, to be featured on sale during January 2004, as recommended by Richard Gerrish, Spirits Marketing Specialist and concurred by John Bunnell, Administrator of Marketing & Sales. The motion was unanimously adopted.

e. 1 additional item – United Beverages, Inc.:

It was moved by Commissioner Byrne, seconded by Commissioner Maiola, that the Commission approve an additional special offer from United Beverages, Inc., based upon depletions of one (1) spirit item (without matching funds), to be featured on sale during January 2004, as recommended by Richard Gerrish, Spirits Marketing Specialist and concurred by John Bunnell, Administrator of Marketing & Sales. The motion was unanimously adopted.

B. WINES:

1) Proposed Wine Sale for March 2004:

It was moved by Commissioner Byrne, seconded by Commissioner Russell, that the Commission approve the placement of all 750ML size chardonnays and pinot noirs on sale at 10% off the purchase of 6 to 8 bottles, 15% off the purchase of 9 to 11 bottles and 20% off 12 or more bottles during the March 2004 wine sale (March 1 through April 4), as recommended by Nicole Horton, Wine Marketing Specialist and concurred by John Bunnell, Administrator of Marketing & Sales. The motion was unanimously adopted.

2) New Wine Product Listings (Codes #17235, #37151, #37155 & #38133):

It was moved by Commissioner Byrne, seconded by Commissioner Russell, that the Commission approve full distribution of the following four (4) 750ML size wine codes, each of which earned at least \$6,500.00 during a twelve-month period, the majority of which were in the retail and on-premise markets, as recommended by Nicole Horton, Wine Marketing Specialist and seconded by John Bunnell, Administrator of Marketing & Sales: Code #17235, Vouvray B&G; Code #37151, Montes Cabernet Sauvignon RSV; Code #37155, Montes Chardonnay RSV; and Code #38133, Il Bastardo Sangiovese. The motion was unanimously adopted.

3) Purchase and Re-introduction of Mirassou Wines:

It was moved by Commissioner Byrne, seconded by Commissioner Russell, that the Commission approve a special purchase and introduction offer from Pine State Trading Co./E & J Gallo Winery of four (4) Mirassou wine codes, to be featured on sale during January and February 2004, as recommended by Nicole Horton, Wine Marketing Specialist and concurred by John Bunnell, Administrator of Marketing & Sales. The motion was unanimously adopted.

4) Delicato Purchase of Shiraz 2002:

It was moved by Commissioner Byrne, seconded by Commissioner Russell, that the Commission approve a special purchase offer from United Beverages, Inc./The Delicato Wine Company of one (1) Delicato wine code, to be featured on sale during January and February 2004, as recommended by Nicole Horton, Wine Marketing Specialist and concurred by John Bunnell, Administrator of Marketing & Sales. The motion was unanimously adopted.

5) Columbia Purchase and Sweepstakes:

It was moved by Commissioner Byrne, seconded by Commissioner Russell, that the Commission approve a special purchase offer and sweepstakes from United

Beverages, Inc./Connoisseur Wine Co. for three (3) Columbia wine codes, to be featured on sale during January and February 2004, as recommended by Nicole Horton, Wine Marketing Specialist and concurred by John Bunnell, Administrator of Marketing & Sales. The motion was unanimously adopted.

6) Purchase & Sweepstakes for Black Swan 1.5 Liters:

It was moved by Commissioner Byrne, seconded by Commissioner Russell, that the Commission approve a special purchase and sweepstakes from Pine State Trading Co./E & J Gallo Winery for four (4) Black Swan wine codes, to be featured on sale during January and February 2004, as recommended by Nicole Horton, Wine Marketing Specialist and concurred by John Bunnell, Administrator of Marketing & Sales. The motion was unanimously adopted.

7) Yalumba Y Series Program:

It was moved by Commissioner Byrne, seconded by Commissioner Russell, that the Commission deny a special offer and sweepstakes from M.S. Walker, Inc. in promotion of the Yalumba Y Series program during January 2004, as recommended by Nicole Horton, Wine Marketing Specialist and concurred by John Bunnell, Administrator of Marketing & Sales. The motion was unanimously adopted.

8) Close Out Pricing for Martignetti Companies of N.H.:

It was moved by Commissioner Byrne, seconded by Commissioner Russell, that the Commission approve close out pricing submitted by Martignetti Companies of N.H. on one (1) wine code, including a floor stock adjustment on all inventories in retail stores, as recommended by Nicole Horton, Wine Marketing Specialist and concurred by John Bunnell, Administrator of Marketing & Sales. The motion was unanimously adopted.

9) Close Out Pricing for United Beverages:

It was moved by Commissioner Byrne, seconded by Commissioner Russell, that the Commission approve close out pricing submitted by United Beverages, Inc. on five (5) wine codes, including floor stock adjustments on all inventories in retail stores and Law Warehouse, as recommended by Nicole Horton, Wine Marketing Specialist and concurred by John Bunnell, Administrator of Marketing & Sales. The motion was unanimously adopted.

10) Special Offers for January 2004:

a. 1 item – Perfecta Wine Company:

It was moved by Commissioner Byrne, seconded by Commissioner Russell, that the Commission approve a special offer from Perfecta Wine Company, based upon depletions of one (1) wine item, to be featured on sale during January 2004, as recommended by Nicole Horton, Wine Marketing Specialist and concurred by John Bunnell, Administrator of Marketing & Sales. The motion was unanimously adopted.

- b. 7 items – M.S. Walker, Inc.:

It was moved by Commissioner Byrne, seconded by Commissioner Russell, that the Commission approve special offers from M.S. Walker, Inc., based upon depletions of seven (7) wine items, to be featured on sale during January 2004, as recommended by Nicole Horton, Wine Marketing Specialist and concurred by John Bunnell, Administrator of Marketing & Sales. The motion was unanimously adopted.

- c. 5 items – R.P. Imports:

It was moved by Commissioner Byrne, seconded by Commissioner Russell, that the Commission approve special offers from R.P. Imports, based upon depletions of five (5) wine items, to be featured on sale during January 2004, as recommended by Nicole Horton, Wine Marketing Specialist and concurred by John Bunnell, Administrator of Marketing & Sales. The motion was unanimously adopted.

- d. 2 items – R.P. Imports:

It was moved by Commissioner Byrne, seconded by Commissioner Russell, that the Commission approve special offers from R.P. Imports, based upon depletions of two (2) wine items, to be featured on sale during January 2004, as recommended by Nicole Horton, Wine Marketing Specialist and concurred by John Bunnell, Administrator of Marketing & Sales. The motion was unanimously adopted.

- e. 51 items – Executive Wine & Spirits:

It was moved by Commissioner Byrne, seconded by Commissioner Russell, that the Commission approve special offers from Executive Wine & Spirits, based upon depletions of fifty (51) wine items, to be featured on sale during January 2004, as recommended by Nicole Horton, Wine Marketing Specialist and concurred by John Bunnell, Administrator of Marketing & Sales. The motion was unanimously adopted.

- f. 138 items – Martignetti Companies of N.H.:

It was moved by Commissioner Byrne, seconded by Commissioner Russell, that the Commission approve special offers from Martignetti Companies of N.H., based upon depletions of one hundred thirty-eight (138) wine items, to be featured on sale during January 2004, as recommended by Nicole Horton, Wine Marketing Specialist and concurred by John Bunnell, Administrator of Marketing & Sales. The motion was unanimously adopted.

- g. 31 items – Horizon Beverage Company:

It was moved by Commissioner Byrne, seconded by Commissioner Russell, that the Commission approve special offers from Horizon Beverage Company, based upon depletions of thirty-one (31) wine items, to be featured on sale during January 2004, as recommended by Nicole Horton, Wine Marketing Specialist and concurred by John Bunnell, Administrator of Marketing & Sales. The motion was unanimously adopted.

- h. 153 items – United Beverages, Inc.:

It was moved by Commissioner Byrne, seconded by Commissioner Russell, that the Commission approve special offers from United Beverages, Inc., based upon depletions of one hundred fifty-three (153) wine items, to be featured on sale during January 2004, as recommended by Nicole Horton, Wine Marketing Specialist and concurred by John Bunnell, Administrator of Marketing & Sales. The motion was unanimously adopted.

- 11) Recommended Wine Specialty Product Distribution:

It was moved by Commissioner Byrne, seconded by Commissioner Russell, that the Commission approve the distribution of eighteen (18) wine specialty products, as recommended by Nicole Horton, Wine Marketing Specialist and concurred by John Bunnell, Administrator of Marketing & Sales. The motion was unanimously adopted.

- 12) Recommended Wine Specialty Products:

It was moved by Commissioner Byrne, seconded by Commissioner Russell, that the Commission approve the designation of three (3) wine codes as wine specialty products, to be carried in wine specialty stores, as recommended by Nicole Horton, Wine Marketing Specialist and concurred by John Bunnell, Administrator of Marketing & Sales. The motion was unanimously adopted.

- 13) Recommended Allocated Wines for Distribution to Selected Stores:

- a. 14 items:

It was moved by Commissioner Byrne, seconded by Commissioner Russell, that the Commission approve the distribution of fourteen (14) allocated wine items to selected stores, as recommended by Nicole Horton, Wine Marketing Specialist and concurred by John Bunnell, Administrator of Marketing & Sales. The motion was unanimously adopted.

- b. 11 items:

It was moved by Commissioner Byrne, seconded by Commissioner Russell, that the Commission approve the distribution of eleven (11) allocated wine items to selected stores, as recommended by Nicole Horton, Wine Marketing Specialist and concurred by John Bunnell, Administrator of Marketing & Sales. The motion was unanimously adopted.

- 14) Not Recommended – Allocation:

- a. 1 item:

It was moved by Commissioner Byrne, seconded by Commissioner Russell, that the Commission approve the non-allocation of one (1) wine code, as recommended by Nicole Horton, Wine Marketing Specialist and concurred by John Bunnell, Administrator of Marketing & Sales. The motion was unanimously adopted.

- b. 3 items:

It was moved by Commissioner Byrne, seconded by Commissioner Russell, that the Commission approve the non-allocation of three (3) wine codes, as recommended by Nicole Horton, Wine Marketing Specialist and concurred by John Bunnell, Administrator of Marketing & Sales. The motion was unanimously adopted.

- 15) “R” Wines for Allocation to Licensees:

- a. 2 items:

It was moved by Commissioner Byrne, seconded by Commissioner Russell, that the Commission approve two (2) “R” wines for allocation to licensees selected by the broker, and retail distribution, as recommended by Nicole Horton, Wine Marketing Specialist and concurred by John Bunnell, Administrator of Marketing & Sales. The motion was unanimously adopted.

- b. 2 items:

It was moved by Commissioner Byrne, seconded by Commissioner Russell, that the Commission approve two (2) additional “R” wines for allocation to licensees selected by the broker, and retail distribution, as recommended by Nicole Horton,

Wine Marketing Specialist and concurred by John Bunnell, Administrator of Marketing & Sales. The motion was unanimously adopted.

- 16) Primary Source Submissions (4 items – primary source; 14 items – exclusive agent; 8 items – imported):

It was moved by Commissioner Byrne, seconded by Commissioner Russell, that the Commission approve the listing of two (2) wine codes which are from primary source, fourteen (14) wine codes which are not from primary source, but are offered by the exclusive marketing agent, and eight (8) wine codes which are not from primary source, but are imported, as recommended by Nicole Horton, Wine Marketing Specialist and concurred by John Bunnell, Administrator of Marketing & Sales. The motion was unanimously adopted.

III. ENFORCEMENT & LICENSING REPORTS – None.

IV. CHAIRMAN’S REPORT & LATE ITEMS

1. Bailment Requests:

It was moved by Commissioner Byrne, seconded by Commissioner Russell, that the Commission approve all previously reviewed requests for bailment releases/transfers dated November 21 through December 3, 2003. The motion was unanimously adopted.

2. Coupon Approvals: None.

3. Late Items:

- a. Portsmouth Circle store railings:

It appears that some customers have been climbing through the lower and upper sections of the railing which runs along the front of Store #38 in Portsmouth into the parking lot to avoid having to follow it down to the end, creating a potential danger of being hit by traffic in the lot. In order to avoid this, there are two potential solutions. One would be to add a middle railing to the already existing one at a cost of about \$2,900.00. The other would be to open the section up so customers could walk directly into the parking lot. It would cost approximately \$1,700.00 to jackhammer this out. Commissioner Byrne favored making an opening and installing some speed bumps and pedestrian crossing signs. It was moved by Commissioner Maiola, seconded by Commissioner Russell, that the first option, to add an additional third railing, be pursued. The motion was adopted on a two to one vote, with Commissioner Byrne in opposition.

Anthony C. Maiola, Chairman

John W. Byrne, Commissioner

Patricia T. Russell, Commissioner

/D. Hartford